

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WENDY ANDERSON HALPERIN,)	
Plaintiff)	2020 CV 07616
v.)	
DRAWN TO DISCOVER, LLC an)	
Illinois Limited Liability Company, and)	
BRIAN T. GOODMAN, an individual)	
Defendants)	

**DEFENDANT’S OBJECTIONS TO PLAINTIFF’S
MOTION FOR LEAVE TO FILE ‘OMITTED’ EXHIBIT
INSTANTER**

NOW COMES Defendant DRAWN TO DISCOVER, LLC an Illinois Limited Liability Company ("DTD"), and BRIAN T. GOODMAN (“Goodman”)(Collectively referred to as “Plaintiffs”), by and through their counsel HERMAN J. MARINO and HERMAN J. MARINO LTD., P.C. who hereby submit their OBJECTIONS TO PLAINTIFF’S MOTION FOR LEAVE TO FILE “OMITTED” EXHIBIT INSTANTER.

1. On May 30, 2023, this Honorable Court set a briefing schedule on Plaintiff’s Motion for Summary Judgment.
2. Defendant timely filed its response memorandum and supporting materials required under local Rule 56.1 on July 13, 2023. Plaintiff’s reply is due Thursday, July 27, 2027

3. Plaintiff filed no timely Reply and instead filed a Motion for Leave to File an “omitted” exhibit which it claims it did not realize was omitted until she read Defendant’s Response filed July 13, 2023.
4. Local Rule 56.1 provides that any such objections to the opposing parties statement of facts or exhibits must be included in the Reply

Memorandum absent leave of Court:

(c) Moving Party’s Reply. After an opposing party files its materials under LR 56.1(b), the movant shall serve and file—

- (1) a reply memorandum of law that complies with LR 56.1(g); and
- (2) a response to the LR 56.1(b)(3) statement of additional material facts (if any) that complies with LR 56.1(e) and that attaches any cited evidentiary material not attached to the LR 56.1(a)(3) statement, the LR 56.1(b)(2) response, or the LR 56.1(b)(3) statement.

(f) Reply in Support of Statement of Facts. No reply to a LR 56.1(b)(2) or LR 56.1(c)(2) response is permitted without the court’s permission. **The moving party may use its reply memorandum of law to respond to an evidentiary or materiality objection raised in a LR 56.1(b)(2) response. The opposing party must seek permission from the court for a supplemental filing to respond to an evidentiary or materiality objection raised in a LR 56.1(c)(2) response.**

Local Rule 56.1

5. The proposed “omitted” exhibit is a central issue in the credibility of the Plaintiff’s Motion for Summary Judgment, without which summary judgment cannot be granted.
6. Granting the Motion for Leave to File will prejudice Defendant which has not been given the opportunity to address this new matter.

7. Further, the Plaintiff's Motion for Leave is presented in bad faith.

Plaintiff admits that she knew of the omission upon reading Defendant's timely response filed July 13, 2023 and yet waited until the day its reply was due to raise the issue with the Court. The Motion provides no explanation why this Motion for Leave was not filed in advance of the due date for its Reply. The Motion is simply a disguised attempt to seek an extension of the due date for her Reply under the pretext of seeking leave to file an allegedly omitted exhibit.

WHEREFORE, Plaintiffs DRAWN TO DISCOVER, LLC an Illinois Limited Liability Company ("DTD"), and BRIAN T. GOODMAN, by and through their counsel HERMAN J. MARINO and HERMAN J. MARINO LTD., P.C. hereby respectfully request this Honorable Court enter and Order as follows:

- A. DENY the Plaintiff's Motion for Leave to File exhibit instant;
- B. BAR Plaintiff from filing its Reply out of time;
- C. Rule on Plaintiff's Motion for Summary Judgment based solely upon the Plaintiff's Motion for Summary Judgment and Defendant's Response; and,
- D. Provide such further and other relief that this Court in equity deems just.

Dated: July 27, 2023.

Respectfully submitted,

**DRAWN TO DISCOVER, LLC an Illinois
Limited Liability Company ("DTD"), and
BRIAN T. GOODMAN, Defendants**

/s/ Herman J. Marino

One of their Attorneys

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